

**Subpart A—General****§ 1522.1 Scope and terms used in this part.**

(a) This part governs the use of TSA-approved validation firms and individual validators to assess whether certain persons regulated under this chapter are in compliance with this chapter.

(b) In addition to the terms in §§1500.3 and 1540.5 of this chapter, the following terms apply in this part:

*Applicant* means a firm that seeks to become a TSA-approved validation firm under this part.

*Assessment* means the physical inspections, records reviews, personnel interviews, and other procedures conducted by a validator to assess whether a person is in compliance with relevant requirements of a security program.

*Conflict of interest* means a situation in which the validation firm, the validator, or an individual assisting in the assessment, or the spouse or immediate family member of such person, has a relationship with, or an interest in, the person under assessment that may adversely affect the impartiality of the assessment. Examples of conflict of interest situations include, but are not limited to, any of the following:

(1) The validation firm is a parent company or subsidiary of the person under assessment, has a financial interest in the person under assessment, or has common management or organizational governance (for example, interlocking boards of directors) with the person under assessment.

(2) The validation firm, the validator, or an individual who will assist in conducting the assessment, or an immediate family member of such a validator or individual, is a creditor or debtor of the person under assessment.

(3) The validator, or an individual who will assist in conducting the assessment, or the spouse or immediate family member of such a person, is, or within the past two years has been, an employee, officer, or contractor of the person under assessment whose duties did not involve the operations being assessed.

(4) The validator, or an individual who will assist in conducting the assessment, or the spouse or immediate

family member of such a person, is, or at any time has been, an individual, officer, or contractor of the person under assessment whose duties or responsibilities did involve the operations being assessed.

(5) The validator, or an individual who will assist in conducting the assessment, or the spouse or immediate family member of such a person, has a financial interest in the person under validation.

*Firm* means a business enterprise or other non-governmental organization, including a sole proprietorship, partnership, limited liability partnership, limited liability corporation, and a corporation.

*National of the United States* means a citizen of the United States, or a person who, though not a citizen, owes permanent allegiance to the United States, as defined in 8 U.S.C. 1101(a)(22), and includes American Samoa and Swains Island.

*TSA-approved validation firm or validation firm* means a firm that has been approved under this part to conduct an assessment under this chapter.

*Validator* means an individual assigned by the validation firm to be responsible for conducting a given assessment under this part.

**§ 1522.3 Fraud and intentional falsification of records.**

No person may make, or cause to be made, any of the following:

(a) Any fraudulent or intentionally false statement in any application under this part.

(b) Any fraudulent or intentionally false entry in any record or report that is kept, made, or used to show compliance with this subchapter, or used to exercise any privilege under this part.

(c) Any reproduction or alteration, for fraudulent purpose, of any report, record, security program, access medium, or identification medium issued or submitted under this part.

**§ 1522.5 TSA inspection authority.**

(a) Each validation firm and each validator must allow TSA, during normal business hours, in a reasonable manner, without advance notice, to

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enter the facility and make any inspections or tests, including copying records, to—

(1) Determine compliance of a validation firm or validator with this chapter and 49 U.S.C. 114 and Subtitle VII, as amended; or

(2) Carry out TSA's statutory or regulatory authorities, including its authority to—

(i) Assess threats to transportation;

(ii) Enforce security-related regulations, directives, and requirements;

(iii) Inspect, maintain, and test the security of facilities, equipment, and systems;

(iv) Ensure the adequacy of security measures for the transportation of passengers and cargo;

(v) Oversee the implementation, and ensure the adequacy, of security measures at airports and other transportation facilities;

(vi) Review security plans; and

(vii) Carry out such other duties, and exercise such other powers, relating to transportation security as the Assistant Secretary of Homeland Security for the TSA considers appropriate, to the extent authorized by law.

(b) At the request of TSA, each validation firm and validator must provide evidence of compliance with this chapter, including copying records.

(c) TSA and DHS officials working with TSA may conduct inspections under this section without access media or identification media issued or approved by a validation firm or other person, except that the TSA and DHS officials will have identification media issued by TSA or DHS.

### **Subpart B—TSA-Approved Validation Firms and Validators for the Certified Cargo Screening Program**

#### **§ 1522.101 Applicability.**

This subpart governs the use of TSA-approved validation firms and validators to assess whether certified cargo screening facilities (CCSFs), or facilities seeking to be approved as such, comply with the requirements of 49 CFR part 1549.

## 49 CFR Ch. XII (10–1–09 Edition)

### **§ 1522.103 Requirements for validation firms.**

In addition to the other requirements of this part, a validation firm must meet the following requirements to be approved to assess certified cargo screening facilities:

(a) *Resources.* The validation firm must have sufficient facilities, resources, and personnel to conduct the assessments.

(b) *Security Coordinator.* The validation firm must designate and use a Security Coordinator and at least one alternate Security Coordinator.

(1) The Security Coordinator and alternates must be senior employees or officers of the firm, and must be readily available during normal business hours.

(2) The Security Coordinator and designated alternates must serve as the validation firm's primary contact for security-related activities and communications with TSA.

(3) The Security Coordinator must immediately initiate corrective action for any instance of non-compliance by the validation firm with any applicable TSA security requirement.

(c) *Security Program.* The validation firm must obtain TSA approval of a security program and must implement the security program.

(d) *Personnel.* The validation firm must ensure that its personnel carry out the requirements of this chapter and the validation firm's security program.

(e) *Change in information.* (1) The validation firm must inform TSA, in a form and manner prescribed by TSA, of any change in the information required to be submitted by the validation firm to TSA under this part within seven days of the change.

(2) Changes included within the requirement of this paragraph include, but are not limited to, changes in the validation firm's address, phone number, or other contact information, the identity of the Security Coordinator or alternate, significant changes in ownership of the firm.

### **§ 1522.105 Adoption and implementation of the security program.**

(a) *Security program required.* No person may operate as a validation firm